



Guide to Employment Rights



NERA

National Employment Rights Authority

About NERA

NERA's mission is to achieve a national culture of employment rights compliance.

Information

NERA – under the Workplace Relations Customer Service (WRCS) title – provides impartial information on a wide variety of employment rights legislation to employees and employers by telephone, in writing, by email and through ongoing public awareness programmes. NERA also provides an extensive range of explanatory leaflets.

Inspection

NERA is responsible for monitoring a range of employment rights for all employees in Ireland. The inspectors operate in a fair and impartial manner, carrying out a variety of routine and planned inspections throughout the country and also investigating alleged employment rights breaches.

Enforcement and Prosecution

Where evidence of non-compliance with employment rights legislation is found, inspectors seek redress from the employer for the employee. In some cases prosecutions can be initiated against the employer.

NERA will also, in certain circumstances, pursue the enforcement of awards made by the Labour Court, the Rights Commissioners and the Employment Appeals Tribunal.

Guide to Employment Rights

This guide is intended to give general guidance to employees and employers on employment rights matters. It is not a complete or authoritative statement of the law and is not a legal interpretation.

More detailed information is available from Information Services. Where an individual wishes to make a complaint the On-Line complaint form is available from www.workplacerelations.ie. Once completed the complaint form can be submitted on-line directly to Workplace Relations Customer Service (WRCS). On successful receipt of the complaint the WRCS will complete the acknowledgement phase and process the complaint for hearing by the relevant body

Terms of Employment Minimum Entitlements Provided by Law

The employer is required under the Terms of Employment (Information) Acts, 1994 and 2001 to give all employees certain information in writing - the important elements of terms of employment - within two months of commencing employment.

This information must include:

- The full names of the employer and the employee
- The address of the employer
- The place of work, or where there is no main place of work, a statement indicating that an employee is required or permitted to work at various places
- Job title or nature of the work
- Date of commencement of employment
- If the contract is temporary, the expected duration of employment
- If the contract is for a fixed-term, the date on which the contract expires; if the contract is for a fixed purpose, then the details of the occurrence of that specific purpose
- The rate of pay or method of calculating pay
- Whether pay is weekly, monthly or otherwise
- Terms or conditions relating to hours of work, including overtime
- Terms or conditions relating to paid leave (other than paid sick leave)
- Terms or conditions relating to incapacity for work due to sickness or injury
- Terms or conditions relating to pensions and pension schemes
- Periods of notice or method for determining periods of notice
- A reference to any collective agreements which affect the terms of employment

Who is the Employer?

Generally the party who pays the wages is the employer and is responsible for ensuring that employees receive their minimum entitlements in law and as set out in this guide. The title of the employer (limited company/sole trader) on income tax documentation is a good indication of the legal title of the employer.



Minimum Wage

An experienced adult employee is entitled to a minimum rate of pay under the National Minimum Wage Act, 2000. An experienced adult employee is an employee who has been in any employment in any two years from the date of first employment over the age of 18. Lesser rates apply to other categories of employees. The two years employment referred to here does not have to be with the same employer, or in the same industry, or even in Ireland. All employment over age 18 is reckonable for the purposes of the minimum wage entitlement.

For information on the current rates log onto www.workplacerelations.ie or contact the NERA information services.

Wages and Wage Slips

Under the Payment of Wages Act, 1991 the employer must give the employee a written statement of gross wages and details of all deductions made, along with their wages.

The Payment of Wages Act also protects against unlawful deductions from wages. Deductions from employee wages must be authorised by either the employee's contract of employment, or by the written consent of the employee. A deduction (other than income tax and PRSI contributions) that is not authorised in either manner is an improper deduction.

Where the deduction from wages arises because of (a) an act or omission of the employee (e.g. till shortages, bad workmanship, breakages) or (b) the supply of goods to the employee by the employer (e.g. cleaning of uniforms) then the amount of the deduction must be fair and reasonable having regard to all the circumstances including the amount of wages of the employee.

Working Hours, Holidays, Rest Breaks

The Organisation of Working Time Act, 1997 sets out rights of employees in respect of the following:

Maximum Weekly Hours of Work:

The maximum working week is 48 hours averaged over 4, 6, or 12 months (in most cases no more than 4 months).

Minimum Rest Times/Breaks:

In general employees are entitled to a minimum of:-

- 11 consecutive hours rest per 24 hour period
- one period of 24 hours rest per week, preceded by a daily rest period (11 hours)
- 15 minutes when working four and a half hours or more; 30 minutes when working six hours or more which may include the first break.
- Shop employees when working for a period of six hours and whose hours of work include 11.30am – 2.30pm are entitled to a one-hour consecutive break that must commence during those hours.

Sunday Work: Employees are entitled to a premium payment or paid time off in lieu for Sunday work.

Holidays and Public Holidays: Holiday entitlements are earned from the date of commencement of employment.

The minimum annual leave entitlement is 4 working weeks paid annual leave per leave year. However, annual leave is accrued based on time worked by the employee. Full-time employees earn one week of paid annual leave for every three months worked. Employees who work 1365 hours in any given leave year have earned their full four week annual leave entitlement at that point, except if it is a leave year in which the employee changes employment.

Part-time employees are entitled to annual leave consisting of 8% of hours worked, subject to a maximum of 4 working weeks in the leave year.

Employees are also entitled to nine public holidays during the year, in respect of which your employer may choose to give you one of the following four options:

- a paid day off on the day, or
- a paid day off within a month, or
- an extra day of paid annual leave, or
- an extra day's pay.

The following are the nine public holidays in Ireland:

- | | |
|--------------------------|-----------------------------|
| (a) 1st of January, | (e) First Monday in June, |
| (b) St. Patrick's Day, | (f) First Monday in August, |
| (c) Easter Monday, | (g) Last Monday in October, |
| (d) First Monday in May, | (h) Christmas Day, |
| | (i) St. Stephen's Day. |

In order for a part-time employee to qualify for a public holiday, he/she must work at least 40 hours in the 5-week period that immediately precedes the public holiday.



Pay for Public Holidays

If the public holiday falls on a day on which the employee does not normally work, the employee is entitled to one fifth of his/her normal weekly wage for the day. Employees who are asked to work on a public holiday are entitled to either an additional day's pay for the day, or a paid day off within a month of the day, or an additional day of paid annual leave.

Dismissal

The Unfair Dismissals Acts, 1977 to 2007 outline rights and procedures in the event of dismissal from work. Generally, an employee must have at least 12 months continuous service with his/her employer before he/she is entitled to bring a claim for unfair dismissal under the Acts. For agency workers, the employer for the purposes of unfair dismissal is the user company - not the employment agency.

An employee does not require 12 months service where the dismissal results wholly or mainly from any of the following grounds:

- employee's trade union membership or activity.
- an employee's entitlements, future entitlements, exercise or proposed exercise of rights under the National Minimum Wage Act, 2000.
- employee pregnancy, giving birth or breastfeeding (or any matters connected).
- the exercise or proposed exercise by the employee of rights under the Maternity Protection Act, 1994, the Adoptive Leave Act, 1995, the Parental Leave Act, 1998, or the Carer's Leave Act, 2001.

The dismissal is presumed to be unfair unless the employer can show substantial grounds to justify it.

A dismissal may be deemed fair if it is based wholly or mainly on one of the following grounds and has been effected in accordance with fair procedures:

- capability, competence or qualifications for the job.
- misconduct (in which case disciplinary procedures will be important).
- redundancy.
- where the continuance of employment would contravene another legal requirement.
- where there are other substantial grounds.

A Rights Commissioner or the Employment Appeals Tribunal may uphold a dismissal as not having been unfair in these circumstances:

The Unfair Dismissals Acts provide that the Rights Commissioner or Employment Appeals Tribunal may, in certain circumstances, regard the broken service of an employee as continuous for the purposes of the Acts, if of the opinion that the employer deliberately broke the service of the employee in order to avoid liability under the Unfair Dismissals Acts.

Minimum Notice

The Minimum Notice Acts, 1973 to 2005 provide that every employee who has been in the employment of his/her employer for at least 13 weeks is entitled to a minimum period of notice before that employer may dismiss him or her. This period varies from one to eight weeks according to the length of service.

13 weeks but less than 2 years service = one week

Two years but less than 5 years = two weeks

Five years but less than 10 years = four weeks

Ten years but less than 15 years = six weeks

More than fifteen years = eight weeks

An employer and employee may agree payment in lieu of notice. An employee's minimum notice entitlement is as follows:

An employee who has 13 weeks service with his/her employer is obliged to give one week's notice to his/her employer when resigning, unless there is a written contract of employment that provides for a longer period.

Redundancy

Redundancy is where an employee's position ceases to exist and the employee is not replaced. Any employee aged 16 or over with 104 weeks' continuous service with an employer is entitled to a statutory redundancy payment in this situation.

The statutory redundancy payment is two week's gross pay per year of service up to a ceiling of €600 per week plus one week's pay, which is also subject to the ceiling of €600. This payment is tax-free. Some employers may make redundancy agreements above the statutory rate which could be taxable. Contact your local Revenue office for further information on this.



For information on how to calculate statutory redundancy entitlements please go to the redundancy calculator (<http://www.welfare.ie/en/Pages/Redundancy.aspx>) on the Department of Social Protection website.

Statutory Employment Rights and Protections of Non-Nationals Working in Ireland

Non-Irish nationals working legally in Ireland are entitled to the full range of statutory employment rights and protections in exactly the same manner as an Irish employee.

Redress/Complaints Procedures

Employees can bring complaints to the Rights Commissioners or the Employment Appeals Tribunals where they feel they are not getting their statutory rights. Information on how to make a complaint and the relevant complaint forms are available on request from NERA Information Services or to download from our website at <http://www.workplacereactions.ie>

Employment Agencies

1. Employment Agencies must be licensed under Irish Law and must not charge a fee solely for seeking employment for another person.
2. License application forms can be downloaded from http://www.workplacereactions.ie/en/What_You_Should_Know/Employment_Agencies_and_Agency_Workers/ or contact Agencies Licensing Section of the Department of Jobs, Enterprise and Innovation. Telephone: 059 917 8800.

Other Employment Legislation

Employees are protected from discrimination in employment on the grounds of their age, gender, marital status, family status, race, religion, sexual orientation, disability, or membership of the travelling community (Employment Equality Acts, 1998 and 2004).

Complaints should be addressed to the Equality Tribunal at Davitt House, 65A Adelaide Road, Dublin 2.

Telephone: (01) 613 6800 or Lo-Call: 1890 344 424.

Log onto www.workplacerelations.ie,

E-mail: info@equalitytribunal.ie

Queries on equal status issues should be addressed to the Equality Authority

Telephone: (01) 417 3333 or Lo-Call: 1890 245 545

Log onto www.equality.ie, E-mail: info@equality.ie

Information on the Maternity Protection Act 1994, Parental Leave Act 1998, Adoptive Leave Act 1995, is available from the WRCS at 1890 80 80 90 or from www.workplacerelations.ie

Health and Safety

Information in relation to health and safety in the workplace may be obtained from the Health and Safety Authority at The Metropolitan Building, James Joyce Street, Dublin 1.

Telephone: (01) 614 7000 or Lo-Call: 1890 289 389

Log onto www.hsa.ie, E-mail: web-info@hsa.ie

P45 and Tax Issues

Matters referring to P45 and taxation generally should be addressed to The Revenue Commissioners, Taxes Central Registration Office, 9/15 Upper O'Connell Street, Dublin 1.

Lo-Call: 1890 60 50 90 (PAYE enquiries) or Lo-Call: 1890 30 67 06 (Forms and Leaflets), Log onto www.revenue.ie

PPS and Social and Family Affairs

Matters relating to PPS generally should be addressed to:

PPS Records, Gandon House, Amiens Street, Dublin 1.

Telephone: (01) 704 3232, Fax: (01) 704 3138 or to

Information Service, Aras Mhic Dhiarmada, Store Street, Dublin 1.

Telephone: (01) 704 3174. Log onto www.welfare.ie,

E-mail: info@welfare.ie

Important Addresses and Numbers

Details of the addresses and telephone numbers of the offices of the National Employment Rights Authority with responsibility for statutory employment rights, and other bodies are as follows:

Citizens Information Centre

By Phone: By phoning the Citizens Information Phone Service. Phone 0761 07 4000. **In Person:** By visiting your nearest Citizens Information Centre. You can find your nearest Citizens Information Centre by using the directory on www.citizensinformation.ie or by checking the Golden Pages.

Employment Appeals Tribunal

Davitt House, 65A Adelaide Road, Dublin 2.
Telephone: (01) 631 3006, Lo-Call: 1890 220 222 (ask operator to be put through to Employment Appeals Tribunal).
Fax: (01) 631 3266.

Labour Court

Tom Johnson House, Haddington Rd, Dublin 4.
Telephone: (01) 613 6666, Lo-Call: 1890 220 228,
Fax: (01) 613 6667, E-mail: info@labourcourt.ie,
Log onto www.workplacelrelations.ie

Rights Commissioner Service

Labour Relations Commission, Tom Johnson House,
Haddington Rd, Dublin 4.
Telephone: (01) 613 6700, Lo-Call: 1890 220 227,
Fax: (01) 613 6701. Log onto www.lrc.ie, E-mail: info@lrc.ie

Employment Permits Section

Department of Jobs, Enterprise and Innovation,
Davitt House, 65A Adelaide Road, Dublin 2.
Telephone: (01) 631 3333/631 3308, Lo-Call: 1890 80 80 90.
Fax: (01) 631 3268. E-mail: employmentpermits@djei.ie
Log onto www.djei.ie



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National Employment Rights Authority Contact Details

NERA National Employment Rights Authority,
O'Brien Road, Carlow.

Telephone: (059) 917 8800,

Fax: (059) 917 8912

Log onto www.workplacerelations.ie

Information Services (Workplace Relations Customer Service WRCS)

Telephone: (059) 917 8990,

Lo-Call: 1890 80 80 90

Fax: (059) 917 8909

Log onto www.workplacerelations.ie

NERA Inspection Services

Telephone: (059) 917 8990

Lo-Call: 1890 220 100

Log onto www.workplacerelations.ie

NERA Enforcement & Prosecution Services

Telephone: (059) 917 8890

Lo-Call: 1890 220 200

Log onto www.workplacerelations.ie

Please Note

Callers should note that the rates charged for the use of 1890 (Lo-Call) numbers may vary among different service providers.

Log onto www.workplacerelations.ie



An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation